

UNITED STATES OF AMERICA>>  
>>>FEDERAL COMMUNICATIONS COMMISSION  
>>>  
>>>Washington, D.C. 20554  
>>>  
>>>  
>>>Inquiry Regarding Carrier Current Systems, )  
>>>Including Broadband Over Powerlines ) FCC  
>>>Docket No. 03-104  
>>>  
>>>  
>>>  
>>>REPLY COMMENTS OF  
>>>THE CITIZENS BROADCAST BAND DISCUSSION GROUP, JOHN ANDERSON,  
>>>NICKOLAUS E. LEGGETT AND DON SCHELLHARDT, ESQUIRE  
>>>  
>>>  
>>> The undersigned parties hereby submit Reply Comments, in FCC  
>>>Docket 03-104,  
>>>  
>>>regarding the possible authorization of Broadband Over Powerlines (BPL).  
>>>  
>>> THE CITIZENS BROADCAST BAND DISCUSSION GROUP (CBBDG) is an  
>>>  
>>>informal group of Net-linked Americans who favor expanded radio  
>>>broadcasting  
>>>  
>>>opportunities for the general public and small community groups. This  
>>>nationwide  
>>>  
>>>organization is currently led by KYLE DRAKE, of Plymouth, Minnesota. He  
>>>is a radio  
>>>  
>>>research and electronic designer, presently engaged in improving AM Band  
>>>equipment.  
>>>  
>>> The other undersigned parties -- JOHN ANDERSON of Wisconsin,  
>>>  
>>>NICKOLAUS E. LEGGETT of Virginia and DON SCHELLHARDT, ESQUIRE of  
>>>Connecticut --  
>>>  
>>>are all longstanding activists for media reform.  
>>>  
>>> John Anderson is a broadcast journalist who runs DIYMEDIA, a  
>>>radio reporting  
>>>  
>>>service at the University of Wisconsin Madison, with a Web Site at  
>>>www.diymedia.net.  
>>>  
>>> Don Schellhardt is President of THE AMHERST ALLIANCE, an  
>>>advocacy  
>>>  
>>>group for media reform. In these Reply Comments, however, he speaks  
>>>only  
>>>  
>>>for himself.  
>>>

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>>> Nick Leggett maintains a Web Site on politics and technology at  
>>>  
>>><http://home.earthlink.net/nleggett/home.html>. He was a co-filer, with  
>>>Don Schellhardt,  
>>>  
>>>of the 1997 Petition For Rulemaking which triggered the FCC's first  
>>>consideration of a  
>>>  
>>>Low Power FM Radio Service in FCC Docket RM-9208. For over 20 years,  
>>>he has  
>>>  
>>>filed regularly in FCC Dockets and has authored, or co-authored, several  
>>>Petitions for  
>>>  
>>>action by the FCC.  
>>>  
>>>  
>>>We Strongly Second  
>>>The Concerns Expressed By Various Commenters  
>>>Regarding Interference From BPL  
>>>  
>>>  
>>> With respect to the possible authorization of BPL, as  
>>>contemplated in FCC Docket  
>>>  
>>>03-104, CBBDG and the 3 other undersigned parties strongly second the  
>>>concerns which  
>>>  
>>>have already been expressed in Written Comments by THE NATIONAL  
>>>ACADEMY  
>>>  
>>>OF SCIENCES' COMMITTEE ON RADIO FREQUENCIES -- THE NORTH  
>>>  
>>>AMERICAN SHORTWAVE ASSOCIATION -- THE AMERICAN RADIO RELAY  
>>>  
>>>LEAGUE -- THE AMHERST ALLIANCE -- and a small army of individual  
>>>  
>>>Amateur Radio Service operators. Among others.  
>>>  
>>> If approved, BPL would threaten existing uses of affected  
>>>frequencies for Amateur  
>>>  
>>>Radio Service transmissions -- military communications on the  
>>>Military Affiliate  
>>>  
>>>Radio System (MARS) -- Citizens' Band transmissions -- shortwave  
>>>listening and  
>>>  
>>>broadcasting -- and radio astronomy, both amateur and professional.  
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>>>  
>>>Any and all of these five existing uses clearly have a greater  
>>>value to society  
>>>  
>>>than the marginal increases in convenience offered by BPL.  
>>>  
>>>We add that BPL has already been rejected, on grounds of  
>>>inevitable  
>>>  
>>>interference with higher priority frequency uses, by the governments of  
>>>both The  
>>>  
>>>Netherlands and Japan. The FCC should make the same decision.  
>>>  
>>>  
>>>Approval Of BPL,  
>>>At This Time,  
>>>Would Constitute Partial Pre-Judgment Of  
>>>A Pending PETITION FOR NOTICE OF INQUIRY  
>>>  
>>>  
>>>We also stress that the FCC's authorization of BPL  
>>>technology, at least at this  
>>>  
>>>time, would effectively preclude some of the options presented for the  
>>>Commission's  
>>>  
>>>consideration in a Petition For Notice Of Inquiry filed by CBBDG and the  
>>>other 3  
>>>  
>>>undersigned parties.  
>>>  
>>>Our Petition was filed with the Commission on March 8,  
>>>2003 and posted on  
>>>  
>>>the FCC's Electronic Comment Filing System (ECFS) on March 26, 2003.  
>>>The Petition  
>>>  
>>>calls for the creation of one or more new broadcast bands, reserved  
>>>exclusively for use by  
>>>  
>>>individuals and small community groups, and requests a Notice Of Inquiry  
>>>as a way to  
>>>  
>>>explore the possibilities.  
>>>  
>>>Since one of the possible locations for the new broadcast  
>>>band(s) would be on  
>>>  
>>>the same frequencies that BPL would use, the FCC's approval of BPL at  
>>>this time would  
>>>  
>>>constitute partial pre-judgment of the Petition For Notice Of Inquiry by

>>>CBBDG et al.  
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>>>                  Such partial preclusion of a Petition For Notice Of  
>>>Inquiry, before it has ever  
>>>  
>>>been considered by the Commission, would be contrary to general  
>>>principles of  
>>>  
>>>administrative law.  
>>>  
>>>                  Therefore, authorization of BPL should only be considered  
>>>after, or possibly in  
>>>  
>>>conjunction with, a decision on whether one or more of the affected  
>>>frequencies should  
>>>  
>>>host one or more of the new broadcast bands proposed by CBBDG et al.  
>>>  
>>>  
>>>The CBBDG Petition,  
>>>Addressing In Part The Same Frequencies  
>>>Proposed For The Use Of BPL,  
>>>Should Be Transferred Out Of  
>>>Its Currently Mis-Assigned Docket  
>>>  
>>>  
>>>                  In addition, we want to make certain the full Commission  
>>>is aware that our  
>>>  
>>>Petition For Notice Of Inquiry has been mis-assigned to the wrong Docket  
>>>File on the  
>>>  
>>>ECFS.      That is:      FCC staff have, for reasons unknown, placed the  
>>>Petition in FCC  
>>>  
>>>Docket 99-325, which concerns the "interim" approval of In Band On  
>>>Channel (IBOC)  
>>>  
>>>Digital Radio, plus subsequent filings that seek to overturn or retain  
>>>that authorization.  
>>>  
>>>                  Since our Petition has nothing to do with IBOC Digital  
>>>Radio, but rather  
>>>  
>>>addresses the entire radio spectrum as a possible home for one or more  
>>>new broadcast  
>>>  
>>>bands, the placement of our Petition in the IBOC Docket is inexplicable.  
>>>      Even more  
>>>  
>>>inexplicable is the decision by FCC staff to keep the Petition in FCC

>>>Docket 99-325, even  
>>>  
>>>after hearing from us that the Petition has nothing to do with IBOC  
>>>Digital Radio.  
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>>>The Petition For Notice Of Inquiry, filed by CBBDG and  
>>>the other 3  
>>>  
>>>undersigned parties, should be assigned a Docket Number and made the  
>>>subject of  
>>>  
>>>public comments. Failing that, it should be placed, at the very  
>>>least, in an appropriate  
>>>  
>>>"holding tank" area of the ECFS -- ideally, PRM03ET -- while it  
>>>awaits formal  
>>>  
>>>Docketing. The Petition's present location, in an irrelevant Docket,  
>>>makes it very  
>>>  
>>>unlikely that the filing will ever be "discovered", and considered as a  
>>>possible vehicle for  
>>>  
>>>regulatory action, by higher levels of the Commission.  
>>>  
>>>Following several informal efforts to resolve this  
>>>problem at the "usual"  
>>>  
>>>levels of Commission review, CBBDG has recently filed a formal complaint  
>>>with the  
>>>  
>>>Office of the Inspector General at the FCC. We had hoped the problem  
>>>could have  
>>>  
>>>been resolved without having to file such a formal complaint, but  
>>>repeated  
>>>  
>>>communications through "the usual channels" had availed us nothing.  
>>>  
>>>In any event, we repeat our basic contention that  
>>>the FCC should not  
>>>  
>>>proceed to the merits of BPL authorization without first considering,  
>>>sequentially or  
>>>  
>>>simultaneously, the relevant portions of our pending Petition For Notice  
>>>Of Inquiry.  
>>>  
>>>  
>>>Conclusion  
>>>

>>>  
>>> Given (1) the body of scientific evidence regarding the  
>>>interference that BPL  
>>>  
>>>will generate, (2) the high social value of the existing frequency uses  
>>>that would be  
>>>  
>>>compromised or even displaced by BPL, (3) the record of rejection of  
>>>BPL by  
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>>>two other industrialized nations, and (4) the fact that approval of BPL  
>>>would at least  
>>>  
>>>partially pre-judge a pending Petition For Notice Of Inquiry, the  
>>>rejection of BPL by the  
>>>  
>>>FCC is clearly justified.  
>>>  
>>>  
>>>Respectfully submitted,  
>>>  
>>>  
>>>  
>>>Kyle Drake, Chair  
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>>>45 Bracewood Road  
>>>Waterbury, Connecticut 06706  
>>>pioneerpath@hotmail.com  
>>>  
>>>  
>>>Dated: \_\_\_\_\_  
>>>  
>>>

August 19, 2003

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